REMARKS/ARGUMENTS

I.

Favorable reconsideration of this application, as presently amended, is respectfully requested.

Claims 1, 4, 6-8, 11, and 13-15 are presently active in the application. Claims 2, 3, 5, 9, 10, 12, and 16-24 have been cancelled.

Minor clarifying amendments have been made to the specifications. No new matter has been added.

II.

Claims 1, 4, 7, 8, 11, and 14 stand rejected under 35 USC 103(a) as being unpatentable over Figures 17-21 of the present application in view of Gabriel (U.S. Patent No. 2,249,125), Japan (293890) and Helfrecht (DE 3304806). This rejection is respectfully traversed.

Minor clarifying amendments have been made to claims 1, 7, 8, and 14. Those claims now make explicit that the nail hole and the screw hole are on opposite sides of the support portion a shown in Figs. 1, 2A and 2B and described on page 7 lines 7-13. That limitation was clearly implicit in the previously presented claims. Therefore, those amendments do not change the scope of those claims as previously presented. No new matter has been added.

The subject matter of independent claims 1, 7, 8, and 14 patentably distinguishes over the structure illustrated in Figs. 17-21 of the present application at least with respect to the structure defining the claimed nail hole and screw hole. As shown, for example, in Fig. 19 of the present application, the screw hole 99 and the nail hole 98 are both located on the same side of the support portion 92. In addition, the nail hole 98 is located at a greater distance from the support 92 than the screw hole 99. On the other hand, the subject matter of independent claims 1, 7, 8, and 14 provides for the nail hole 18 to be located on one side of

the support portion 12 and the screw hole 19 to be located at a substantially equal distance on the other side of the support portion 12 as shown, for example, in Fig. 4. This claimed relationship provides the advantage that the fastening member is as firmly attached to the framework when attached by nails as when attached by screws. See, for example, page 25 lines 4-9.

Moreover, the subject matter of independent claims 1, 7, 8, and 14 recite an upper rising portion that comprises a horizontal plane portion that is arranged to form a substantially right angle with respect to the central plate portion as shown, for example, in Fig. 4 where the upper rising portion 113 comprises a horizontal plane portion 15 arranged to form a substantially right angle with respect to the plate portion 115. This claimed relationship provides the advantage that the plane portion 15 can be lightly hit with a hammer for fitting the fastening member to the siding board reliably. See page34 lines 2-7.

In addition, independent claims 1, 7, 8, and 14 recite the upper rising portion comprises a sloped portion wherein a nail hole is formed as shown, for example, by the sloped portion 17 and nail hole 18 in Fig. 2(B). This claimed relationship provides the advantage that the nail can be driven in an oblique downward direction to reliably attach the fastening member to the stud. See page 38 lines 7-14.

These deficiencies in the structure illustrated in Figs. 17-21 of the present application are not made up by the secondary references relied upon by the examiner.

The closes prior art relied upon by the examiner is Japan. However, Japan relates to a metal fitting for attaching wall material of different thickness. The metal fitting disclosed by Japan does not have any structure defining a nail hole as recited in independent claims 1, 7, 8, and 14. On the other hand, the metal fitting disclosed by Japan merely discloses screw holes 11 and 12 in vertical flange portions which extend parallel to the lower 9 and upper 10 wall materials. Accordingly, the subject matter of claims 1, 7, 8, and 14 would have not been

obvious from the fastening member illustrated in Figs. 17-21 of the present application in view of Japan.

The fastening member disclosed by Gabriel is totally unrelated to the structure recited in claims 1, 7, 8, and 14 and fails to make up for the deficiencies noted above with respect to the combination of Figs.17-21 of the present application in view of Japan. Likewise, the structure disclosed by Helfrecht is totally unrelated to the claimed subject matter and fails to make up for the deficiencies noted above with respect to the combination of Figs. 17-21 of the present application in view of Japan and Gabriel.

The device disclosed by Gabriel is a starter fitting used to support the lowest siding board and is unrelated to the claimed invention. The fitting disclosed by Gabriel does not relate to the connection of an upper-and-lower shiplap joining structure to which the present invention is directed. Likewise, Helfrecht has a totally different construction and provides a totally different function from the fastening member set forth independent claims 1, 7, 8, and 14. That is, the device disclosed in Helfrecht has no relation to a structure designed to be disposed between upper and lower siding boards that are joined by the upper-and-lower shiplap joining construction. On the other hand, with the present invention, the claimed fastening member connects upper and lower siding boards that are formed with the lower rabbeted horizontal edge of the upper siding board overlapped onto the upper tongue portion formed on the upper rabbeted horizontal edge of the lower siding board and both are joined through an upper-and-lower shiplap joining. That is, the upper tongue portion of the lower siding board is engaged at the lower board engaging portion of the fastening member and a protrusion on the lower side portion of the upper siding board is engaged at the upper engaging portion of the fastening member as shown, for example, in Fig. 4 and described on page 35 lines 11-17. Thus, it is clear that the devices disclosed by Gabriel and Helfrecht are totally unrelated to the claimed fastening member.

Furthermore, the claimed fastening member is designed to connect boards having substantially the same thickness as opposed to the fastening member disclosed by Japan, which is adapted to connect wall materials that do not have the same thickness. Therefore, the claimed fastening member provides the advantage that it can be fastened in one position when one desires to fasten it with a nail or nails or it can be turned upside down with respect to the first position when one desires to fasten it by a screw or screws. This relationship is not possible with the fastening member disclosed by Figs. 17-21 of the present application or any of the other references relied upon in the office action.

Accordingly, independent claims 1, 7, 8, and 14 patentably distinguish over the applied references. Claim 4 depends from claim 1 and claim 11 depends from claim 8. Those claims patentably distinguish over the applied references for the reasons stated above with respect to their respective independent claims. Moreover, each of those claims includes additional limitations that further patentably distinguish over the applied references.

IV.

Claims 6 and 13 stand rejected under 35 USC 103(a) as being unpatentable over Figures 17-21 in view of Gabriel, Japan, and Helfrecht. This rejection is respectfully traversed.

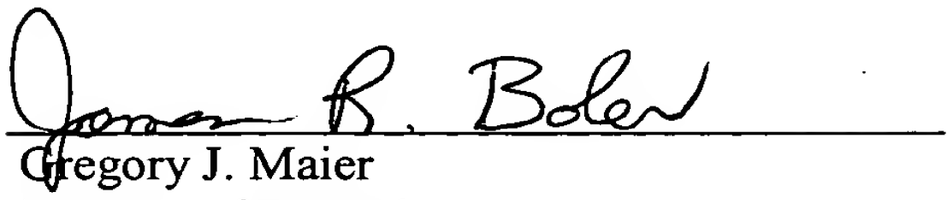
Claims 6 depends from claim 1 and claim 13 depends from claim 8. Accordingly, claims 6 and 13 patentably distinguish over the applied references for the reasons stated above with respect to claims 1 and 8. Applicants note that the office action relies upon the same references in this rejection of claims 6 and 13 as it relied upon in the rejections of claims 1 and 8.

V.

In view of the above remarks, Applicants respectfully request favorably reconsideration and allowance of claims 1, 4, 6-8, 11, and 13-15.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Attorney of Record
Registration No. 25,599

James R. Boler
Registration No. 37,058

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)